

AMENDED IN SENATE MAY 5, 2014

SENATE BILL

No. 1004

Introduced by Senator Hernandez
(Coauthor: Senator Wolk)

February 13, 2014

An act to ~~amend Section 1746 of the Health and Safety Code, relating to health facilities.~~ *add Section 14132.75 to the Welfare and Institutions Code, relating to health care.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1004, as amended, Hernandez. ~~Health facilities: hospice care.~~
Health care: palliative care.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits, including hospice benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law requires the department to develop, as a pilot project, a pediatric palliative care benefit to evaluate whether, and to what extent, such a benefit should be offered under the Medi-Cal program. Existing law requires that the pilot project be implemented only to the extent that federal financial participation is available, and requires the department to submit a waiver application for federal approval.

Existing law requires that beneficiaries eligible to receive the pediatric palliative care benefit be under 21 years of age, and allows the department to further limit the population served by the project to make the above evaluation. Existing law requires that the services available under the project include those types of services that are

available through the Medi-Cal hospice benefit, and certain other services.

This bill would require the department to develop, as a pilot project, a similar palliative care benefit for beneficiaries who are 21 years of age or older, and to evaluate whether, and to what extent, that benefit should be offered under the Medi-Cal program. The bill would require that the pilot project be implemented only to the extent that federal financial participation is available, and would require the department to submit a waiver application for federal approval. The bill would require that authorized providers under the pilot program include licensed hospice agencies and home health agencies licensed to provide hospice care, subject to criteria developed by the department for provider participation.

~~Existing law defines “hospice” as a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease, and provide supportive care to the primary caregiver and the family of the hospice patient, and that meets specified criteria, including, but not limited to, providing for the palliative medical treatment of pain and other symptoms associated with a terminal disease, but does not provide for efforts to cure the disease.~~

~~This bill would revise the definition of “hospice” so that the palliative medical treatment would no longer be limited to those treatments that do not provide for efforts to cure the disease.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14132.75 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 14132.75. (a) In enacting this section, it is the intent of the
- 4 Legislature that the palliative care pilot project developed pursuant
- 5 to this section include, but not be limited to, all of the following:
- 6 (1) Specialized medical care and emotional and spiritual support
- 7 for people with serious advanced illnesses.
- 8 (2) Relief of symptoms, pain, and stress of serious illness.
- 9 (3) Improvement of quality of life for both the patient and family.

1 (4) *Appropriate care for any age and for any stage of serious*
2 *illness, along with curative treatment.*

3 (b) *The department, in consultation with interested stakeholders,*
4 *shall develop, as a pilot project, a palliative care benefit to*
5 *evaluate whether, and to what extent, that benefit should be offered*
6 *under the Medi-Cal program. The pilot project shall be*
7 *implemented only to the extent that federal financial participation*
8 *is available.*

9 (c) *Beneficiaries eligible to receive the palliative care benefit*
10 *shall be 21 years of age or older. The department may further limit*
11 *the population served by the pilot project to a size deemed sufficient*
12 *to make the evaluation required pursuant to subdivision (b).*

13 (d) *Services covered under the palliative care benefit shall*
14 *include those types of services that are available through the*
15 *Medi-Cal hospice benefit. The benefit shall also include the*
16 *following services, regardless of whether those services are*
17 *covered under the Medi-Cal hospice benefit:*

18 (1) *Hospice services that are provided at the same time that*
19 *curative treatment is available, to the extent that the services are*
20 *not duplicative.*

21 (2) *Hospice services provided to individuals whose conditions*
22 *may result in death, regardless of the estimated length of the*
23 *individual's remaining period of life.*

24 (3) *Any other services that the department determines to be*
25 *appropriate.*

26 (e) *The department, in consultation with interested stakeholders,*
27 *shall determine the medical conditions and prognoses that render*
28 *a beneficiary eligible for the benefit.*

29 (f) *Providers authorized to provide services under the pilot*
30 *program shall include licensed hospice agencies and home health*
31 *agencies licensed to provide hospice care, subject to criteria*
32 *developed by the department for provider participation.*

33 (g) (1) *The department shall submit any necessary application*
34 *to the federal Centers for Medicare and Medicaid Services for a*
35 *waiver to implement the pilot project described in this section. The*
36 *department shall determine the form of waiver most appropriate*
37 *to achieve the purposes of this section. The waiver request shall*
38 *be included in any waiver application submitted within 12 months*
39 *after the effective date of this section, or shall be submitted as an*
40 *independent application within that time period. After federal*

1 approval is secured, the department shall implement the waiver
2 within 12 months of the date of approval.

3 (2) The waiver shall be designed to cover a period of time
4 necessary to evaluate the medical necessity for, and
5 cost-effectiveness of, a palliative care benefit. The results of the
6 pilot project shall be made available to the Legislature and
7 appropriate policy and fiscal committees to determine the
8 effectiveness of the benefit.

9 (h) Notwithstanding Chapter 3.5 (commencing with Section
10 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
11 the department may implement the provisions of this section by
12 means of provider bulletins or similar instructions, without the
13 adoption of regulations. The department shall notify the fiscal and
14 appropriate policy committees of the Legislature of its intent to
15 issue a provider bulletin or other similar instruction at least five
16 days prior to issuance.

17 (i) (1) Nothing in this section shall result in the elimination or
18 reduction of any covered benefits or services under the Medi-Cal
19 program.

20 (2) This section shall not affect an individual's eligibility to
21 receive, concurrently with the benefit provided for in this section,
22 any services, including home health services, for which the
23 individual would have been eligible in the absence of this section.

24 ~~SECTION 1. Section 1746 of the Health and Safety Code is~~
25 ~~amended to read:~~

26 ~~1746. For the purposes of this chapter, the following definitions~~
27 ~~apply:~~

28 ~~(a) "Bereavement services" means those services available to~~
29 ~~the surviving family members for a period of at least one year after~~
30 ~~the death of the patient, including an assessment of the needs of~~
31 ~~the bereaved family and the development of a care plan that meets~~
32 ~~these needs, both prior to and following the death of the patient.~~

33 ~~(b) "Home health aide" has the same meaning as that term is~~
34 ~~defined in subdivision (e) of Section 1727.~~

35 ~~(c) "Home health aide services" means those services described~~
36 ~~in subdivision (d) of Section 1727 that provide for the personal~~
37 ~~care of the terminally ill patient and the performance of related~~
38 ~~tasks in the patient's home in accordance with the plan of care in~~
39 ~~order to increase the level of comfort and to maintain personal~~
40 ~~hygiene and a safe, healthy environment for the patient.~~

1 ~~(d) “Hospice” means a specialized form of interdisciplinary~~
2 ~~health care that is designed to provide palliative care, alleviate the~~
3 ~~physical, emotional, social, and spiritual discomforts of an~~
4 ~~individual who is experiencing the last phases of life due to the~~
5 ~~existence of a terminal disease, and provide supportive care to the~~
6 ~~primary caregiver and the family of the hospice patient, and that~~
7 ~~meets all of the following criteria:~~

8 ~~(1) Considers the patient and the patient’s family, in addition~~
9 ~~to the patient, as the unit of care.~~

10 ~~(2) Utilizes an interdisciplinary team to assess the physical,~~
11 ~~medical, psychological, social, and spiritual needs of the patient~~
12 ~~and the patient’s family.~~

13 ~~(3) Requires the interdisciplinary team to develop an overall~~
14 ~~plan of care and to provide coordinated care that emphasizes~~
15 ~~supportive services, including, but not limited to, home care, pain~~
16 ~~control, and limited inpatient services. Limited inpatient services~~
17 ~~are intended to ensure both continuity of care and appropriateness~~
18 ~~of services for those patients who cannot be managed at home~~
19 ~~because of acute complications or the temporary absence of a~~
20 ~~capable primary caregiver.~~

21 ~~(4) Provides for the palliative medical treatment of pain and~~
22 ~~other symptoms associated with a terminal disease.~~

23 ~~(5) Provides for bereavement services following death to assist~~
24 ~~the family in coping with social and emotional needs associated~~
25 ~~with the death of the patient.~~

26 ~~(6) Actively utilizes volunteers in the delivery of hospice~~
27 ~~services.~~

28 ~~(7) To the extent appropriate, based on the medical needs of the~~
29 ~~patient, provides services in the patient’s home or primary place~~
30 ~~of residence.~~

31 ~~(e) “Hospice facility” means a health facility as defined in~~
32 ~~subdivision (n) of Section 1250.~~

33 ~~(f) “Inpatient care arrangements” means arranging for those~~
34 ~~short inpatient stays that may become necessary to manage acute~~
35 ~~symptoms or because of the temporary absence, or need for respite,~~
36 ~~of a capable primary caregiver. The hospice shall arrange for these~~
37 ~~stays, ensuring both continuity of care and the appropriateness of~~
38 ~~services.~~

39 ~~(g) “An interdisciplinary team” means the hospice care team~~
40 ~~that includes, but is not limited to, the patient and patient’s family,~~

1 a physician and surgeon, a registered nurse, a social worker, a
2 volunteer, and a spiritual caregiver. The team shall be coordinated
3 by a registered nurse and shall be under medical direction. The
4 team shall meet regularly to develop and maintain an appropriate
5 plan of care.

6 (h) “Medical direction” means those services provided by a
7 licensed physician and surgeon who is charged with the
8 responsibility of acting as a consultant to the interdisciplinary
9 team, a consultant to the patient’s attending physician and surgeon,
10 as requested, with regard to pain and symptom management, and
11 a liaison with physician and surgeons in the community.

12 (i) “Multiple location” means a location or site from which a
13 hospice makes available basic hospice services within the service
14 area of the parent agency. A multiple location shares
15 administration, supervision, policies and procedures, and services
16 with the parent agency in a manner that renders it unnecessary for
17 the site to independently meet the licensing requirements.

18 (j) “Palliative care” means patient and family-centered care that
19 optimizes quality of life of a patient with a terminal illness by
20 anticipating, preventing, and treating suffering. Palliative care
21 throughout the continuum of illness involves addressing physical,
22 intellectual, emotional, social, and spiritual needs and to facilitate
23 patient autonomy, access to information, and choice.

24 (k) “Parent agency” means the part of the hospice that is licensed
25 pursuant to this chapter and that develops and maintains
26 administrative control of multiple locations. All services provided
27 from each multiple location and parent agency are the responsibility
28 of the parent agency.

29 (l) “Plan of care” means a written plan developed by the
30 attending physician and surgeon, the medical director or physician
31 and surgeon designee, and the interdisciplinary team that addresses
32 the needs of a patient and family admitted to the hospice
33 organization. The hospice shall retain overall responsibility for
34 the development and maintenance of the plan of care and quality
35 of services delivered.

36 (m) “Preliminary services” means those services authorized
37 pursuant to subdivision (d) of Section 1749.

38 (n) “Skilled nursing services” means nursing services provided
39 by or under the supervision of a registered nurse under a plan of
40 care developed by the interdisciplinary team and the patient’s

1 physician and surgeon to a patient and his or her family that pertain
2 to the palliative, supportive services required by patients with a
3 terminal illness. Skilled nursing services include, but are not limited
4 to, patient assessment, evaluation and case management of the
5 medical nursing needs of the patient, the performance of prescribed
6 medical treatment for pain and symptom control, the provision of
7 emotional support to both the patient and his or her family, and
8 the instruction of caregivers in providing personal care to the
9 patient. Skilled nursing services shall provide for the continuity
10 of services for the patient and his or her family. Skilled nursing
11 services shall be available on a 24-hour on-call basis.

12 (o) “Social services/counseling services” means those counseling
13 and spiritual care services that assist the patient and his or her
14 family to minimize stresses and problems that arise from social,
15 economic, psychological, or spiritual needs by utilizing appropriate
16 community resources, and maximize positive aspects and
17 opportunities for growth.

18 (p) “Terminal disease” or “terminal illness” means a medical
19 condition resulting in a prognosis of life of one year or less, if the
20 disease follows its natural course.

21 (q) “Volunteer services” means those services provided by
22 trained hospice volunteers who have agreed to provide service
23 under the direction of a hospice staff member who has been
24 designated by the hospice to provide direction to hospice
25 volunteers. Hospice volunteers may be used to provide support
26 and companionship to the patient and his or her family during the
27 remaining days of the patient’s life and to the surviving family
28 following the patient’s death.